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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/602,948	06/26/2000	Jay S. Walker	00-045	3156

22927 7590 05/07/2003

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STAMFORD, CT 06905

EXAMINER
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THEIN, MARIA TERESA T

ART UNIT	PAPER NUMBER
3625	

DATE MAILED: 05/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/602,948	WALKER ET AL.
	Examiner	Art Unit
	Marissa Thein	3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 26 June 2000.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-63 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-63 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 26 June 2000 is/are: a) accepted or b) objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) All b) Some \* c) None of:

        1. Certified copies of the priority documents have been received.

        2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

        3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    \* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

    a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 and 3.

4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Information Disclosure Statement***

The information disclosure statements (IDSs) submitted on June 26, 2000 and September 26, 2000 are being considered by the examiner.

### ***Drawings***

The drawings filed on June 26, 2000 are acceptable.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claim 63 is rejected under 35 U.S.C. 102(e) as being anticipated by U.S.**

**Patent No. 5,930,769.** Rose discloses a method for participating in a shopper information system (col. 1. lines 53-57; col. 1, line 65-col. 2, line 2) comprising: receiving information concerning characteristics of shoppers (col. 1, lines 57-64; col. 3, line 18-col. 4, line 9); using the received information to select an image for viewing (col. col. 1, lines 57-64; col. 3, line 40 – col. 4, line 24; Figures 1-4); and receiving the selected image (col. 1, lines 57-64; col. 3, line 40 – col. 4, line 24; Figures 1-4).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-2, 4-9, 14-17, 22-24, 44-46, 55-56, and 58-59 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,930,769 to Rose in view of U.S. No. Patent 6,295,551 to Roberts et al.**

Regarding claims 1, 44-45 and 55-56, Rose discloses a method, system, and article of manufacturing comprising a computer usable medium having computer readable program code means for operating a shopper information system (col. 1, lines 53-64; col. 3, lines 10-17), comprising: generating an image of a shopper (col. 1, lines 53-64; col. 3, lines 18-20; col. 3, lines 40-62); selecting a garment to be included in the image (col. 1, lines 57-63; col. 3, line 63-col. 4, line 24; Figures 1-4); the shopper dons the selected garment (col. 1, lines 57-63; col. 3, line 63-col. 4, line 24; Figures 1-4); the image of the selected garment is combined with an image of the shopper (col. 1, lines 57-63; col. 3, line 63-col. 4, line 24; col. 7, lines 44-62; Figures 1-4); optical system to capture an image of the shopper (col. 3, lines 19-20; col. 3, lines 56-59); digital camera (col. 3, lines 56-59). However, Rose does not disclose requesting a panel of participants; distributing the image to participants; and receiving responses to the image from the participants. Rose discloses a system that shows analysis of fashion suggestions based on the customer's body type (col. 8, lines 58-60). On the other

hand, Roberts teaches the requesting a panel of participants; distributing the image to a plurality of participants (col. 3, line 58 – col. 4, line 3; col. 5, lines 10-17) and receiving responses to the image from the plurality of participants (col. 4, lines 4-51).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Rose's method of shopping, to include the distributing of images and receiving responses to the image, as taught by Roberts, in order to provide a method for coordinating Internet multimedia communication such that two or more users can view and modify a copy of the same multi-media contents, where any modifications made by one user are subsequently viewed by a second user or other users, as well as enhancing the communication by supplementing any visual communication with audio communication (Roberts col. 1, lines 13-20). Thus, it provides customer service that personalizes and simplifies the shopping process (Rose col. 11, lines 8-9).

Regarding claims 2, 4,14-17, and 22-24 (which discloses all of the limitation of claim 1), Roberts teaches the processing of received responses; transmitting the processed responses to the shopper; providing the received responses to the shopper substantially immediately upon receiving the responses; accumulating the responses; and presenting the accumulated responses to the shopper and transmitting the accumulated responses to a shopper terminal. Furthermore, Roberts teaches the transmitting a promotional offer to the shopper (col. 2, lines 59-61); the offer is determined based on an analysis of the received responses (col. 11, lines 53 – col. 12,

lines 14); transmitting the received responses to a retailer (col. 16, lines 40-67; col. 20, lines 37-43).

Regarding 5-9 and 58-59 (which discloses all of the limitation of claims 1 and 56), Rose discloses logging on to a shopping website; selecting a garment to be included in the image (col. 1, lines 53-64; col. 3, lines 63 – col. 4, line 24; Figures 1-3); the shopper dons the selected garment (col. 1, lines 53-64; col. 6, line 65 – col. 7, line 23; col. 7, lines 44-67; Figures 1-3); the selected garment is combined with an image of the shopper (col. 1, lines 53-64; col. 3, lines 40-62; col. 6, line 65 – col. 7, line 23; col. 7, lines 44-67; Figures 1-3); an optical system to capture an image of the shopper (col. 3, lines 18-20; col. 3, lines 56-62); and a digital camera (col. 3, lines 18-20; col. 3, lines 56-62).

Regarding claim 45, Rose discloses a shopper information kiosk comprising: a kiosk structure (electronic medium); image means, for convenient an image to digital image data; a memory for storing the digital image data; a processor connected to the memory; communication means for connecting the processor to a data network; input means for providing shopper input to the processor; and a display for displaying information to a shopper; and the processor being programmed to control the image means to capture an image of the shopper (col. 2, line 53 – col. 3, line 63). However, Rose does not disclose the panel of participants that responses to the image distributed. On the other hand, Roberts teaches the kiosk and the panel of participants, as recited in the claims. (Col. 5, lines 10-18)

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the shopper information kiosk of Rose, to include the panel of participants, as taught by Roberts, in order to provide a method for coordinating Internet multimedia communication such that two or more users can view and modify a copy of the same multi-media contents, where any modifications made by one user are subsequently viewed by a second user or other users, as well as enhancing the communication by supplementing any visual communication with audio communication (Roberts col. 1, lines 13-20). Thus, it provides customer service that personalizes and simplifies the shopping process (Rose col. 11, lines 8-9).

Regarding claim 46 (which discloses all the limitation of claim 45), Rose discloses a digital camera (col. 3, lines 18-20; col. 3, lines 56-62).

**Claims 3,10-13, 18-21, 25-27, and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over as U.S. Patent No. 5,930,769 to Rose and U.S. Patent No. 6,295,551 to Roberts applied to claims 1, 28 and 56 above, and further in view of U.S. Patent No. 5,913,204 to Kelly.** Rose and Roberts provide the invention substantially as recited, however, the combination does not provide the performing a statistical analysis of the received responses; calculating respective percentages for categories the received responses; assembling the participants based on the received input; the characteristics of the participants include demographic and subjective characteristics of the participants; selecting a panel of participants from a pool of participants; generating a question to be distributed to the participants; the responses include a selection of one or two alternatives posed by the question; the responses

includes a selection of one of a range of alternatives posed by the question; the responses include open-ended text responses; providing an offer to the participants; applying a rating to some participants on the basis of the received responses; and providing a benefit to the participants on the basis of the applied rating. The combination of Rose and Roberts discloses the analysis of fashion suggestion based on the customers' image (Rose col. 8, lines 58-60). Furthermore, the combination further discloses communication between multiple users and multiple representatives may conduct a single conference (Roberts abstract).

Kelly, on the other hand, teaches performing a statistical analysis of the received responses (col. 6, lines 24-67); calculating respective percentages for categories the received responses (col. 6, lines 24-67); assembling the participants based on the received input (Figure 5, col. 1, line 66-col. 2, line 12); the characteristics of the participants include demographic and subjective characteristics of the participants (col. 2, lines 59-64); selecting a panel of participants from a pool of participants (col. 3, lines 10-36); generating a question to be distributed to the participants (col. 3, line 54 – col. 4, line 65); the responses include a selection of one or two alternatives posed by the question (col. 3, line 58 – col. 4, line 65); the responses includes a selection of one of a range of alternatives posed by the question (col. 3, line 58 – col. 4, line 65); the responses include open-ended text responses (col. 3, line 58 – col. 4, line 65); providing an offer to the participants (claim 26); applying a rating to some participants on the basis of the received responses (col. 6, lines 24-67); and providing a benefit to the participants on the basis of the applied rating (col. 6, lines 24-67).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of the combination of Rose and Roberts, to include the performing of statistical analysis of the received responses and the assembling, selecting, and rating of participants, as taught by Kelly, in order to provide prospective participants who comply with the defined criteria (Kelly col. 3, lines 47-50).

**Claims 28-39, 42-43, 48-54, and 60-62 are rejected under 35 U.S.C. 103(a) as being unpatentable over as U.S. Patent No. 5,930,769 to Rose in view of U.S. Patent No. 6,295,551 to Roberts and further in view of U.S. Patent No. 5,913,204 to Kelly.**

Regarding claim 28, Rose discloses the method for operating a shopper information network (col. 3, lines 10-17) comprising: logging on to a shopping website (col. 3, lines 10-38); retrieving a shopper image that represents a shopper (col. 3, line 40-col. 4, line 9); selecting a garment (col. 4, lines 10-24; col. 7, lines 44-67); combining an image of the selected garment with the shopper image to form a combined image (col. 3, line 40 – col. 4, line 25; col. 7, lines 44-67).

However, Rose does not disclose the requesting a panel of participants; defining desired characteristics of the panel of participants; determining availability of participants who match the defined desired characteristics; transmitting the combined image to participants determined to be available; receiving responses from participants to whom the combined image was transmitted; processing the received responses; and transmitting the processed responses to the shopper. Roberts, on the other hand, teaches transmitting the combined image to participants determined to be available;

receiving responses from participants to whom the combined image was transmitted; processing the received responses; and transmitting the processed responses to the shopper. (See col. 3, lines 15-65; col. 5, line 10-17)

However, the combination of Rose and Roberts does not provide the requesting a panel of participants; defining desired characteristics of the panel of participants; and determining availability of participants who match the defined desired characteristics. Kelly, on the other hand, teaches the requesting a panel of participants; defining desired characteristics of the panel of participants; and determining availability of participants who match the defined desired characteristics. (Figure 5, col. 1, line 66-col. 2, line 12; col. 2, lines 59-64; col. 3, lines 10-36)

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Rose's method of shopping, to include the distributing of images and receiving responses to the image, as taught by Roberts, to further include the panel of participants, as taught by Kelly, in order to provide a method for coordinating Internet multimedia communication such that two or more users can view and modify a copy of the same multi-media contents, where any modifications made by one user are subsequently viewed by a second user or other users, as well as enhancing the communication by supplementing any visual communication with audio communication (Roberts col. 1, lines 13-20). Thus, it provides customer service that personalizes and simplifies the shopping process (Rose col. 11, lines 8-9).

Regarding claims 29-33 (which discloses all the limitation of claim 28), Roberts teaches calculating respective percentages for categories of the received responses

and wherein the calculated percentages are presented to the shopper; the response are open-ended text response; defining a query and transmitting the query to the participants with the combined image; selecting the query from a menu; and entering text characters via a key board. (Col. 3, lines 31-50; col. 3, line 57 – col. 4, line 65; col. 5, lines 9-17; col. 5, lines 38-67).

Regarding claims 34-36 (which disclose all the limitation of claim 28), Rose discloses selecting a second garment; the combined image includes and image of the selected second garment (col. 1, lines 53-64; col. 3, lines 18-20; col. 3, lines 40-62); the shopper image is a virtual model that represents the shopper (col. 3, lines 18-62); and the shopper image is derived from at least one photograph of the shopper (col. 3, lines 19-20; col. 3, lines 56-59).

Regarding claim 37, Rose discloses a method of operating a shopper information system comprising capturing an image of a shopper who is wearing a garment (Figures 1-4; col. 1, lines 57-64; col. 3, line 64 – col. 4, line 24). However, Rose does not disclose defining a panel of participants; transmitting the image to the panel of participants; receiving responses from the participants; and presenting the responses to the shopper. On the other hand, Roberts teaches the defining a panel of participants; transmitting the image to the panel of participants; receiving responses from the participants; and presenting the responses to the shopper. (See col. 3, lines 15-65; col. 5, line 10-17) However, the combination of Rose and Roberts does not provide the defining a panel of participants. Kelly, on the other hand, teaches the defining a panel

of participants. (Figure 5, col. 1, line 66-col. 2, line 12; col. 2, lines 59-64; col. 3, lines 10-36)

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Rose's method of shopping, to include the panel of participants, transmitting the image to the participants, and receiving and presenting the responses to the shopper, as taught by Roberts, and to further include the defining a panel of participants, as taught by Kelly, in order to provide a method for coordinating Internet multimedia communication such that two or more users can view and modify a copy of the same multi-media contents, where any modifications made by one user are subsequently viewed by a second user or other users, as well as enhancing the communication by supplementing any visual communication with audio communication (Roberts col. 1, lines 13-20). Thus, it provides customer service that personalizes and simplifies the shopping process (Rose col. 11, lines 8-9).

Regarding claims 38-39, and 42-43 (which discloses all the limitation of claim 37), Roberts teaches the responses are presented to the shopper in the form of a statistical analysis of the response; the response are divided into categories and the statistical analysis includes percentages that correspond to the categories; entering a query and transmitting the query to the participants with the image; the presenting step is performed substantially immediately after the receiving step (col. 3, lines 31-50; col. 4, lines 5-43; col. 5, lines 9-17; col. 5, lines 38-67).

Regarding claim 48, Rose discloses a method for operating a shopper information system comprising generating an image of a shopper (col. 1, lines 57-64;

col. 4, lines 18-62). However, Rose does not disclose the storing profiles for each participant for each participant of a pool of participants; receiving a request for a panel of participants; the request specifying at least one participants characteristics; selecting a panel of participants based on the stored profiles and characteristics; and distributing the image of the shopper to the selected panel of participants. Roberts, on the other hand, teaches receiving a request for a panel of participants and the distributing the image of the shopper to the selected panel of participants (col. 3, lines 15-65; col. 5, lines 10-18). However, the combination Rose and Roberts does not provide the storing of profiles for each participants; request specifying the participant characteristics; and the selecting of a panel of participants based on the profiles and characteristics. Kelly, on the other hand, teaches the storing of profiles for each participants; request specifying the participant characteristics; and the selecting of a panel of participants based on the profiles and characteristics. (Figure 5, col. 1, line 66-col. 2, line 12; col. 2, lines 59-64; col. 3, lines 10-36)

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Rose, to include the requesting for a panel and distributing the image to the panel, as taught by Roberts, and to further include the selection of participants based on the profiles and characteristics, as taught by Kelly, in order to provide a method for coordinating Internet multimedia communication such that two or more users can view and modify a copy of the same multi-media contents, where any modifications made by one user are subsequently viewed by a second user or other users, as well as enhancing the communication by supplementing any visual

communication with audio communication (Roberts col. 1, lines 13-20). Thus, it provides customer service that personalizes and simplifies the shopping process (Rose col. 11, lines 8-9).

Regarding claims 49-52 (which discloses all the limitation of claim 48), Roberts teaches the receiving of responses to the image from the participants; providing feedback to the shopper based on the received responses; the generating step is performed before the receiving step; and the receiving step is performed before the generating step (col. 3, lines 31-50; col. 4, lines 5-43; col. 5, lines 9-17; col. 5, lines 38-67).

Regarding claim 53-54 (which discloses all the limitation of claim 48), Rose discloses storing a profile for the shopper and using an optical system to capture an image of the shopper (col. 3, lines 118-62).

Regarding claims 60-62, Rose discloses a method for participating in a shopper information system (col. 1. lines 53-57; col. 1, line 65-col. 2, line 2), comprising the image of a shopper (col. 3, lines 18-62; Figure 1) and the receiving information concerning characteristics of the shopper (col. 3, line 18-col. 4, line 9: Figures 1-4). However, Rose does not disclose the receiving an invitation to participate in a panel; responding to the invitation; the receiving a message; responding to the message; and responding to the message includes selecting a check box. Roberts, on the other hand, teaches the receiving a message and the responding to a message (col. 3, lines 15-22; col. 5, lines 52-67; claims 19 and 28); and the responding to message includes selecting a check box (col. 17, lines 1-13).

The combination of Rose and Roberts does not provide the receiving an invitation to participate in a panel and responding to the invitation. Kelley, on the other hand, teaches receiving an invitation to participate in a panel and responding to the invitation (col. 1, line 66-col. 2, line 23; claim 10).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Rose to include the receiving and responding to message, as taught by Roberts, and to further include the receiving and responding to an invitation to participate in a panel, as taught by Kelly, in order to provide a method for coordinating Internet multimedia communication such that two or more users can view and modify a copy of the same multi-media contents, where any modifications made by one user are subsequently viewed by a second user or other users, as well as enhancing the communication by supplementing any visual communication with audio communication (Roberts col. 1, lines 13-20). Thus, it provides customer service that personalizes and simplifies the shopping process (Rose col. 11, lines 8-9).

**Claims 41-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over as U.S. Patent No. 5,930,769 to Rose in view of U.S. Patent No. 6,295,551 to Roberts and in view of U.S. Patent No. U.S. Patent No. 5,913,204 to Kelly as applied to claim 37 above, and further in view of U.S. Patent No. 6,134,548 to Gottsman.** Rose, Roberts, and Kelly provide the invention substantially, as recited, however, the combination does not provide a product identifier code and the scanning a bar code that represents the product identifier. Gottsman, on the other hand, teaches

the product identifier and the scanning of a bar code (abstract, summary). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination of Rose, Roberts and Kelly to have include the product identifier code and the scanning of a bar code, as taught by Gottsman, in order to find the availability and pricing information of the product (Gottsman col. 2, lines 1-3).

**Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,930,769 to Rose in view of U.S. No. Patent 6,295,551 to Roberts et al. as applied to claim 45, and in further view of U.S. Patent No. 6,134,548 to Gottsman.** Rose and Roberts provide the invention substantially, as recited, however, the combination does not provide a scanner connect to the processor for entering product information. Gottsman, on the other hand, teaches the scanner, as recited in the claim (abstract, summary). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination of Rose and Roberts to have include the scanner, as taught by Gottsman, in order to find the availability and pricing information of the product (Gottsman col. 2, lines 1-3).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 4,870,579 to Hey discloses a system and method of predicting reactions for each unsampled item by a user based on similarity in reaction of other users relative to the that user.

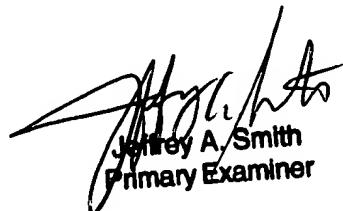
U.S. Patent No. 5,227,874 to Von Kohorn discloses the measuring of the impact of stimuli on individuals under varying circumstances.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marissa Thein whose telephone number is 703-305-5246. The examiner can normally be reached on Monday-Friday 8:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 703-308-1344. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

mtot  
April 29, 2003



Jeffrey A. Smith  
Primary Examiner